Amendments to the Claims:

Please cancel claims 11, 23, 24, and 25.

Please amend claims 1, 2, 7, 8, 13, 18, 19 and 22 as follows:

1. (Currently amended) An isolated nucleic acid molecule comprising a ~~nucleic acid~~ promoter, wherein said promoter comprises ~~selected from the group consisting of~~:

a) a nucleic acid having at least ~~70~~95% identity to the nucleotide sequence set forth in SEQ ID NO: 5;

~~b) a nucleic acid having at least 80% identity to the nucleotide sequence set forth in SEQ ID NO: 5; and~~

~~c) a nucleic acid that hybridizes to SEQ ID NO: 5 under highly stringent conditions~~.

2. (Currently amended) A recombinant expression cassette comprising ~~a~~ the ~~nucleic acid~~ promoter of claim 1 operably linked to a heterologous nucleic acid of interest.

3. (Original) A vector comprising the recombinant expression cassette of claim 2.

4. (Original) A host cell having stably incorporated in its genome the recombinant expression cassette of claim 3.

5. (Original) The host cell of claim 4, wherein the host cell is a plant cell.

6. (Original) A plant stably transformed with the recombinant expression cassette of claim 2.

7. (Currently amended) Transgenic seed of the plant of claim 6, wherein the seed comprises the recombinant expression cassette.

8. (Currently amended) A method for expressing a heterologous nucleic acid in a plant, said method comprising:

a) introducing into a plant cell a vector comprising ~~a~~ the promoter of claim 1 operably linked to the heterologous nucleic acid;

b) ~~culturing~~ regenerating a plant from the plant cell ~~under plant growing conditions to produce a regenerated plant~~; and

c) ~~allowing~~ expressing~~on of~~ the heterologous nucleic acid.

9. (Original) The method of claim 8, wherein the heterologous nucleic acid is selected from the group consisting of a nucleic acid providing resistance to insects, a nucleic acid providing resistance to disease and a nucleic acid providing herbicide resistance.

10. (Original) The method of claim 9, wherein the heterologous nucleic acid is a nucleic acid providing resistance to disease.

11. (Cancelled)

12. (Original) An isolated nucleic acid comprising the nucleotide sequence set forth in SEQ ID NO: 5.

13. (Currently amended) A recombinant expression cassette comprising ~~a~~ the nucleic acid of claim 12 operably linked to a heterologous nucleic acid of interest.

14. (Original) A vector comprising the recombinant expression cassette of claim 13.

15. (Original) A host cell having stably incorporated in its genome the recombinant expression cassette of claim 13.

16. (Original) The host cell of claim 15, wherein the host cell is a plant cell.

17. (Original) A plant stably transformed with the recombinant expression cassette of claim 13.

18. (Currently amended) Transgenic seed of the plant of claim 17, wherein the seed comprises the recombinant expression cassette.

19. (Currently amended) A method for expressing a heterologous nucleic acid in a plant, said method comprising:

a) introducing into a plant cell or tissue a vector comprising athe ~~promoter~~ nucleic acid of claim ~~13~~ 12 operably linked to the heterologous nucleic acid;

b) ~~culturing~~ regenerating a plant from the plant cell ~~or tissue under plant growing conditions to produce a regenerated plant~~; and

c) ~~allowing~~ expressing~~on of~~ the heterologous nucleic acid.

20. (Original) The method of claim 19, wherein the heterologous nucleic acid is selected from the group consisting of a nucleic acid providing resistance to insects, a nucleic acid providing resistance to disease and a nucleic acid providing herbicide resistance.

21. (Original) The method of claim 20, wherein the heterologous nucleic acid is a nucleic acid providing resistance to disease.

22. (Currently amended) An isolated nucleic acid capable of driving expression of a heterologous gene, wherein the nucleic acid comprises ~~comprising~~ at least ~~20~~ 500 contiguous nucleotides of the sequence set forth in SEQ ID NO: 5.

23-25. (Cancelled)